

CHAPTER 2

ADMINISTRATION

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ARTICLE I. IN GENERAL

SECTION 2-1. CITY SEAL--DESCRIBED.

There is adopted, as the seal of the City, a metallic disc, two inches in diameter with a border or outer circle, within which shall be engraved at the top of the circle, the words "City of Winchester," and at the bottom of the circle the word "Virginia." Within this circle shall be engraved a shield which shall be quartered and shall display thereon, in the upper left quarter, the Union Jack of Great Britain as it existed during the period when Winchester owed allegiance to that flag; in the upper right quarter, the flag of the Commonwealth of Virginia; in the lower left quarter, the cross and stars of the battle flag of the Confederate States of America; and in the lower right quarter, a portion of the union with three of the stars, three of the red stripes and two of the white stripes of the flag of the United States of America. At the top and center of the shield shall be a bust of a Shawnee Indian warrior. Below the shield shall be the motto "Fare Fac," and below that the date "1744." At the right of the shield shall be a decoration of a garland of the ivy vine, and at the left a laurel branch. This seal shall be so engraved as to produce the above- described design when it is impressed on paper. When the seal is reproduced in colors, the several quarterings, the Indian bust, the laurel and ivy shall be in their proper colors, and the lettering in the outer circle shall be in colonial blue upon a background of colonial buff. This seal shall be the authorized and official and corporate seal of the City and shall be accepted and used as such. (Code 1959, §1-8)

Charter reference--Authority to use corporate seal, §1.

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Cross references--Air pollution commission, §3-2 *et seq.*; building official, §6-1; plumbing and gas inspector, §6-46; electrical inspector, §6-98; housing code board of appeals, §6-331 *et seq.*; elections, Ch. 7; fire department, §10-16 *et seq.*; fire marshal, §10-30 *et seq.*; fire prevention code board of appeals, §10-47(F-105.11); library board, §12-16 *et seq.*; park and recreation council, §18-1; park and recreation board, §18-16 *et seq.*; planning commission, §19-16 *et seq.*; police department, §20-16 *et seq.*; director of utilities, §29-1 *et seq.*; tree commission, §30-32 *et seq.*

SECTION 2-2. SAME--CUSTODIAN; USE.

The clerk of the council shall be custodian of the corporate seal of the City, and he shall affix it to such papers or documents as he may be authorized to affix it by ordinance or resolution of the council. (Code 1959, §2-47)

SECTION 2-3. CITY FLAG.

There is adopted as the flag of the City a scarlet field with a Saint Andrew's cross imposed, composed of three (3) stripes of equal width, the center stripe of colonial blue and the flanking stripes of colonial buff. The cross shall be outlined by a narrow white edge separating it from the scarlet field. In the center of the cross, at the intersection, shall be a scarlet shield superimposed and outlined by a narrow white edge, and charged upon the shield shall be a Norman lion regardant, in colonial buff color, a facsimile of the lions on the flag of the City of Winchester, England, after which Winchester, Virginia, was named. This flag shall be the authorized and official and corporate flag of the City and shall be accepted and used as such. (Code 1959, §1-9)

SECTION 2-4. ELECTION, TERM AND REMOVAL OF COUNCIL-ELECTED OFFICERS.

- (a) Unless otherwise especially provided, beginning in 2007, every municipal officer elected by the council shall be elected at the first regular meeting of the council in the month of January, or as soon thereafter as practicable.
- (b) Except as otherwise provided, the term of each officer elected as provided in subsection (a) above shall be one year and shall commence on the first day of February next succeeding the date of election. Every officer so elected shall hold his office until his successor is appointed and has qualified.
- (c) The city council may, at its pleasure, remove any officer elected by the council.

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- (d) Any vacancy occurring in any municipal office, to which the holder is elected by the council, shall be filled by the council at a regular or adjourned meeting; provided, that no vacancy shall be filled at an adjourned meeting unless previous notice thereof shall have been given to all members of the council. All persons appointed to fill a vacancy shall hold office only during the unexpired term of the office in which such vacancy occurs. (Code 1959, §§2-22--2-26; Ord. of 9-20-76; Ord. No. 034-2004, 08-10-2004)

Charter reference--Appointment and removal of department heads, §5.

SECTION 2-5. BONDS OF OFFICERS AND EMPLOYEES.

- (a) The city council shall designate the officers and employees of the City who shall be bonded and shall designate the amounts of such bonds. Nothing in this Code or the ordinance adopting this Code shall affect any ordinance prescribing the amount of bonds and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.
- (b) Bonds referred to in this section shall be filed with the clerk of the council; provided, that the bonds of constitutional officers shall be filed as provided by state law.
- (c) All official bonds shall be given with such security as may be approved by the council and shall be made payable to the City, conditioned for the faithful performance and discharge of the duties of the office to which the person giving it has been appointed. Any person who shall fail, for thirty (30) days after his election or appointment, to give such bond and security as may be required of him shall thereby vacate such office. (Code 1959, §§2-28, 2-29)

State Law Reference--Authority of council to require official bonds, Code of Virginia, §15.1-797.

SECTION 2-6. COMPENSATION OF OFFICERS AND EMPLOYEES.

- (a) Officers and employees of the City shall receive such compensation as the council may, by ordinance, determine.
- (b) Nothing in this Code or the ordinance adopting this Code shall affect any ordinance prescribing or otherwise relating to the salaries, wages or other compensation of city officers or employees and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. (Code 1959, §2-27)

State Law Reference--Compensation of officers and employees to be fixed by council, Code of Virginia, §15.1-797.

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SECTION 2-7. MEMBERS OF POLICE DEPARTMENT, RESCUE SQUAD AND CERTAIN FIRE COMPANIES RECOGNIZED AS PART OF OFFICIAL SAFETY PROGRAM.

The city council hereby recognizes the members of the Winchester Police Department, the Winchester Volunteer Rescue Squad, Inc., Friendship Fire Company Number One, Inc., Charley Rouss Fire Company, Inc., Sarah Zane Fire Company, Inc., Shawnee Volunteer Fire Department, Inc., and South End Fire Company, Inc., as an integral part of the official safety program of the City, pursuant to Chapter 3, Article 1.1, Title 15.1 [§15.1-136.1 *et seq.*] of the Code of Virginia, titled "Line of Duty Act." (Ord. of 5-8-73)

Cross references--Fire department, §10-16 *et seq.*; police department, §20-16 *et seq.*

SECTION 2-8. DESIGNATION AND DUTIES OF LOCAL BOARD OF PUBLIC WELFARE.

Pursuant to Section 63.1-43 of the Code of Code of Virginia, the city manager shall be the Board of Social Services. The Department of Public Welfare and the local Board of Public Welfare are hereby designated as the Department of Social Services and the Local Board of Social Services respectively. The city manager, as the Board, shall discharge the duties and functions imposed upon the Board by Title 63.1 of the Code of Virginia, and by applicable ordinances of the City. (Ord. No. 037-88, 9-13-88).

SECTION 2-8.1. SOCIAL SERVICES ADVISORY BOARD.

There is hereby created a Social Services Advisory Board, pursuant to §63.1-43.1, *et seq.* of the Code of Virginia. The advisory board shall consist of seven (7) members appointed by the common council. The initial term for two (2) members shall be one (1) year, two (2) members for two (2) years, one (1) member for three (3) years, and two (2) members for four (4) years. Subsequent to the initial terms, the Board shall serve for terms of four (4) years each. The city manager shall be an ex officio member, without a vote of the advisory board. Appointments to fill vacancies shall be for the unexpired term. The Advisory Board shall have the responsibilities and be subject to the limitations set forth in said §63.1-43.1, *et seq.* as amended from time to time. (Ord. No. 037-88, 9-13-88; Ord. No. 036-95, 9-12-95; Ord No. 010-2001, 3-13-01)

SECTION 2.9. FISCAL YEAR.

The fiscal year of the City shall begin July first and end June thirtieth. Such fiscal year shall constitute the budget and accounting year. All officers and heads of departments, offices, divisions, boards, commissions and agencies of the City of Winchester shall, on or before the first day of April of each odd-numbered year, beginning in 2005, prepare and submit to the city manager an estimate of the amount of money deemed to be needed

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during the ensuing two fiscal years for his department, office, division, board, commission or agency. If such person does not submit an estimate in accordance with this section, the city manager shall prepare and submit an estimate in accordance with that department, office, board, commission or agency. The city manager shall prepare and present to council a budget for informative and fiscal-planning purposes only, containing a complete, itemized and classified plan of all contemplated expenditures and all estimated revenues and borrowings of the City for the ensuing two fiscal years. The council shall consider and approve such budget in such final form as a majority of the councilors shall agree, no later than the date set for the beginning of the fiscal year and shall fix a tax rate for the two ensuing fiscal years at that time. (Code 1959, §7-1)(Ord. No. 044-93, 01-06-94; Ord. No. 036-95, 9-12-95; Ord. No. 027-2004, 08-10-2004)

(Note: The effective date of this ordinance shall be January 1, 2005)

State Law Reference--Uniform fiscal year and fiscal year accounting procedures for cities, Code of Virginia, §15.1-13.2. See also Chapter 39 of the 1994 Acts of Assembly.

SECTION 2-10. FEE FOR PASSING BAD CHECK TO CITY.

Any person who shall utter, publish, or pass any check or draft for payment of taxes of any other sums to the City, which is subsequently returned for insufficient funds or because there is no account or the account has been closed, shall be assessed a fee of twenty-five dollars (\$25.00) by the city treasurer. (Ord. of 1-14-75; Ord. No. 043-91, 11-12-91; Ord. No. 005-2000, 3-14-00).

State Law Reference--Authority for above section, Code of Virginia, §15.2-106.

SECTION 2-11. PUBLIC IMPROVEMENTS PAID FOR BY LOCAL ASSESSMENT.

- (a) Whenever the city council shall propose to open or lay out or grade and pave any new street or to grade and pave or repair the pavement of any existing street or sidewalk, or to construct any bridge, culvert, or sewer, or to make any other public improvement within the corporate limits of the City, authorized to be paid for in whole or in part by a local assessment, it shall fix and determine the limits of the district within which the real estate will, in its opinion, be benefited by the proposed improvement.
- (b) Such improvements may be ordered by the council and the cost thereof apportioned in pursuance of an agreement between the City and the abutting landowners and, in the absence of such an agreement, improvements, the cost of which is to be defrayed in whole or in part by such local tax assessment, may be ordered on a petition from not less than three fourths (3/4) of the landowners to be affected thereby, or by a two-thirds (2/3) vote of all the members elected to the council. But notice shall first be given as hereinafter provided to the abutting landowners, notifying them when and where they may appear before the Council to be heard in favor of or against such improvements.(Ord. No. 036-95, 9-12-95)

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Cross references--Recommendations of planning commission relative to public improvements, §19-27; improvements on existing streets generally, §26-6 *et seq.*; building permit on existing street not to issue until applicant agrees to pay his share of cost of street improvements, §6-17.

State Law References--Assessments for local improvements, Code of Virginia, §§15.1-239 - 15.1-249.1.

SECTION 2-12. REPEALED. (Ord. No. 036-95, 9-12-95)

SECTION 2-13. ASSESSMENTS TO BE REPORTED TO TREASURER.

The amount assessed against each landowner, or for which he is liable by agreement, shall be reported as soon as practicable to the treasurer, who shall enter the same as provided for other taxes. (Ord. No. 036-95, 9-12-95)

State Law Reference--Code of Virginia, §15.1-242.

SECTION 2-14. NOTICE TO LANDOWNER OF AMOUNT OF ASSESSMENT.

When the assessment or apportionment is not fixed by agreement, notice thereof, and of the amount so assessed or apportioned, shall be given each of the then abutting owners and he shall be cited thereby to appear before the assessor, not less than ten days thereafter, at a time and place to be designated therein, to show cause, if any he can, against such assessment or apportionment. (Ord. No. 036-95, 9-12-95)

State Law Reference--Code of Virginia, §15.1-243.

SECTION 2-15. HOW NOTICE GIVEN; OBJECTIONS.

The notice required by Section 2-14 may be given by personal service on all persons entitled to such notice, except that notice to an infant or insane person may be served on his guardian or committee and notice to a nonresident may be mailed to him at his place of residence or served on any agent of his having the property in charge, or on the tenant of the freehold, or in any case when the owner is a nonresident, or when the owner's residence is not known, such notice may be given by publication in some newspaper published or having general circulation in the City once a week for four successive weeks. Or, in any case, in lieu of such personal service on the parties or their agents and of such publication, the notice to all parties may be given by publishing the same in some newspaper published or having general circulation in the City, once a week for two successive weeks. The second publication shall be made at least seven days before the parties are cited to appear. Any landowner wishing to make objections to an assessment or apportionment may appear in person or by counsel and state such objections.

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If his objections are overruled, he shall, within thirty days thereafter, but not afterwards, have an appeal as of right to the circuit court of the City. When an appeal is taken, the clerk of the council shall immediately deliver to the clerk of the circuit court the original notice relating to the assessment, with the judgment of the assessor endorsed thereon and the clerk of the court shall docket the same. (Ord. No. 036-95, 9-12-95)

State Law References--Code of Virginia, §§15.1-244, 15.1-245.

SECTIONS 2-16 - 2-22. RESERVED.

ARTICLE II. CITY COUNCIL GENERALLY

DIVISION 1. GENERALLY

SECTION 2-23. CONTINUING BODY.

The council shall be construed to be a continuing body. (Code 1959, §2-1)

SECTION. 2-24. REGULAR MEETING DATE; CALL OR ORDER OF SPECIAL MEETING.

- (a) The regular meetings of the council shall be held on the second Tuesday of each month.
- (b) Special meetings of the council may be called by the president, or the vice-president when authorized to act for the president, at any time and, in case of his absence, inability or refusal, may be convened by the order in writing of three (3) members of the council, addressed to the clerk of the council. Every call or order for a special meeting shall contain a notice of the object of such meeting, and no other business shall be transacted unless two-thirds of the members present shall vote to take up such business. (Code 1959, §2-2) (Ord. No. 036-95, 9-12-95)

State Law Reference--Special meetings of council, Code of Virginia, §15.1-809.

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SECTION 2-25. QUORUM.

A majority of the members of the council shall constitute a quorum. If a quorum shall fail to attend within fifteen (15) minutes after the appointed time of a meeting, those present may adjourn to such time as they may deem proper, and the clerk of the council shall enter the names of those present and absent upon the journal. (Code 1959, §2-3)

State Law Reference--Quorum for transaction of business, Code of Virginia, §15.1-812.

SECTION 2-26. ELECTION AND GENERAL DUTIES OF PRESIDENT.

- (a) Biennially, at its first meeting in January beginning in 2007, the council shall elect one of its members president, who shall be the presiding officer of the council.
- (b) The president of the council shall enforce the rules of the council, preserve order and appoint all standing and other committees, unless otherwise provided. The president shall decide all questions of order and may give his reasons therefor without vacating the chair. (Code 1959, §§2-4, 2-5; Ord. of 9-20-76; Ord. No. 033-2004, 8-10-04)

Note: The effective date of this ordinance shall be January 1, 2007.

Charter references--Vesting of administration and government of city, §3; creation and members of council. §4; powers and duties of council generally, §5; investigations by council §7; buying from councilmen, §15; vacancies in council, §23.

Cross reference--Disrupting council meetings, §16-6.1.

State Law Reference--Presiding officer of council, Code of Virginia, §15.1-809.

SECTION 2-27. ELECTION AND DUTIES OF VICE-PRESIDENT.

Biennially, at the first meeting in January beginning in 2007, the council shall elect one of its members to be vice-president, who shall preside at council meetings in the absence of the president. (Code 1959, §2-6; Ord. of 9-20-76; Ord. No. 033-2004, 8-10-04).

Note: The effective date of this ordinance shall be January 1, 2007.

State Law Reference--Vice-President of council, Code of Virginia, §15.1-809.

SECTION 2-28. PRESIDENT PRO TEMPORE.

In case of the absence of the president and vice-president, the council shall elect a president pro tempore. (Code 1959, §2-7).

State Law Reference--Code of Virginia, §15.1-809.

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SECTION 2-29. CLERK TO PRESIDE UNTIL VICE-PRESIDENT ELECTED.

Biennially, at the first meeting in July, and until either a president or a vice-president has been elected, the clerk of council shall preside; provided that, if the clerk of council is absent, the members of the council may elect a temporary president who shall preside until a president or vice-president has been chosen. (Code 1959, §2-8; Ord. of 9-20-76).

SECTION 2-30. APPEALS FROM DECISION OF CHAIR.

Any member of the council may appeal to the council from any decision of the chair, the question being, "Shall the decision of the chair stand as the judgment of the council?" Such appeal, unless it refers to a question of order, may be debated. The decision of the chair shall remain final unless a majority of the members present vote against the decision.

(Code 1959, §2-9).

SECTION 2-31. ORDER OF PROCEEDINGS.

At meetings of the council, the order of the proceedings shall be as follows:

- (a) Roll call (Absentees to be noted).
- (b) Public hearings.
- (c) Approval of minutes.
- (d) Correspondence.
- (e) Reports, if any, of treasurer, commissioner of the revenue, finance director, and city manager, which reports may be made orally or in writing.
- (f) Reports of standing committees, in such order as established by resolution or motion of Council.
- (g) New business.
- (h) Adjournment.

(Code 1959, §2-10; Ord. of 10-11-77; Motion adopted 6-12-79 minutes; Ord. No. 023-81, 9-8-81; Ord. No. 040-87, 12-08-87; Ord. No. 017-89, 7-11-89; Ord. No. 036-95, 9-12-95)

- (B) Any item to be placed on the Agenda for a regular meeting of Council, as described in Section 2-24(a) of this Code, shall be in the hands of the City Clerk not later than Noon on the Wednesday next preceding such meeting, and the Clerk shall, immediately thereafter, publish and distribute the Agenda to all members of Council. No items may be added to such Agenda except by unanimous vote of those members present at the said regular meeting. (Ord. No. 011-99 of 05-11-99)

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SECTION 2-32. SUSPENSION OF RULES.

Council may temporarily suspend any of its rules by vote of two-thirds of the members present. (Code 1959, §2-11).

SECTION 2-33. HOW DEBATE CONDUCTED.

At meetings of the council, the question shall be stated by the chair before debated and, in any debate, no member shall speak more than once on the same question until all others have spoken who desire to do so, nor more than twice upon the same question, except by consent of the council.

SECTION 2-34. CALLING FOR AYE AND NAY VOTE .

At meetings of the council, the ayes and nays on any question may be called for at any time before proceeding to any other business, and shall be ordered upon the demand of any three (3) members of the council.

SECTION 2-35. MOTION TO RECONSIDER.

At meetings of the council, no motion to reconsider a question which has been decided shall be entertained unless it is made by a member who voted with the prevailing side, and unless the motion to reconsider is made at the same session of the council at which the question to be reconsidered was decided. All motions to reconsider shall be decided by a majority vote of the members present. (Code 1959, §2-14) .

SECTION 2-36. MOTION TO ADJOURN.

At meetings of the council, the motion to adjourn shall always be in order, except:

- (1) When a member is on the floor;
- (2) When the ayes and nays are being called;
- (3) When the previous question has been ordered;
- (4) When a motion to adjourn has been put and lost without any other business intervening.

No motion to adjourn shall be debatable.

SECTION 2-37. ADDRESSING COUNCIL.

At meetings of the council, no person who is not a member of the council shall orally address it unless leave to do so has been applied for through some member of the council and granted by unanimous consent. (Code 1959, §2-16).

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SECTION 2-38. LEAVE TO WITHDRAW.

After a member of the council has been entered by the clerk of the council as present at any meeting, he shall not, without leave of two-thirds of the members of the council present, absent himself from such meeting until the adjournment. (Code 1959, §2-17).

SECTION 2-39. PREREQUISITES TO ACTION ON CLAIMS AGAINST CITY.

No claim against the City shall be acted upon at any meeting of the council unless the same has been placed in the hands of the committee on finance at least three (3) days prior to the session of the council at which it is reported. (Code 1959, §2-18).

SECTIONS 2-40 - 2-46. RESERVED.

DIVISION 2. STANDING COMMITTEES

SECTION 2-47. STANDING COMMITTEES ENUMERATED.

Council from time to time by resolution shall establish the several standing committees of Council. Council shall designate the number of members of each and the duties of each. Three (3) members of any Committee which has four (4) members must be present to constitute a quorum. If three (3) members do not attend, the Committee chair may recommend to the clerk items for Council's agenda. (Code 1959, §2-19; Ord. of 10-11-77; Ord. No. 040-87, 12-08-87; Ord. No. 017-89, 7-11-89; Ord. No. 036-95, 9-12-95)

SECTION 2-48. COMPOSITION.

The President shall appoint the members of the several standing committees. (Code 1959, §2-20; Ord. No. 040-87, 12-8-87; Ord. No. 017-89, 7-11-89). (Resolution No. 1991-11)

SECTION 2-49. MATTERS REFERRED.

To the standing committees enumerated in Section 2-47 there shall be referred all matters pertaining to their several departments. (Code 1959, §2-21).

SECTIONS 2-50 - 2-60. RESERVED.

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ARTICLE III. ORDINANCES AND RESOLUTIONS

SECTION 2-61. TO BE REDUCED TO WRITING AND APPROVED AS TO FORM.

Every ordinance or resolution presented to the city council shall be reduced to writing and approved by the city attorney as to form. (Code 1959, §2-48).

SECTION 2-62. APPROPRIATION ORDINANCES TO IDENTIFY SOURCE OF INCOME.

Every ordinance making an appropriation shall identify the source of the income that will be required to meet the appropriation, to the end that the annual ordinance appropriating the public revenue may show the source and extent of each appropriation in excess of the current year's revenue. (Code 1959, §2-51).

SECTION 2-63. ORDINANCES - REFERRAL TO AND ACTION BY STANDING COMMITTEE; PLACING ON CALENDAR.

Whenever an ordinance or a resolution that partakes of the nature of an ordinance is offered by any member of the council, it shall be referred by the president to the standing committee which has jurisdiction over the subject matter of the ordinance or resolution, which committee shall, before the next meeting of council, report. such ordinance or resolution in proper form to the clerk of the council. The same, when reported upon by the committee, shall be placed upon the calendar to be kept by the clerk of council in the order in which the same is reported. (Code 1959, §2-49; Ord. No. 040-87, 12-8-87).

Charter references--Power to enact ordinances, §1.03; power to pass regulations for general welfare of city and its citizens, §16.

State Law References--General power to enact ordinances and to prescribe punishment for violation thereof, Code of Virginia, §15.1-13; Appropriation Ordinances, Code of Virginia, §15.1-819.

SECTION 2-64. READING OF ORDINANCES PRIOR TO ADOPTION.

- (a) Prior to adoption by the city council, every ordinance shall be read two (2) times by title. Except as provided in subsection (b) of this section, the substance text of every ordinance shall be furnished by the clerk of council to each member of the council prior to its second reading. The text of the ordinance shall also be provided

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by the clerk of council to each citizen requesting same. No proposed ordinance shall be read twice at any one meeting of council.

- (b) Budget and appropriation ordinances contained in a revision or codification of the ordinances of the City, including new or changed ordinances therein contained, shall be excepted from the provisions of subsection (a) of this section requiring furnishing of written text of ordinances, and said requirements as pertaining to such ordinances shall be deemed to have been met upon:
 - Publication of budget or appropriation ordinances as provided by law and the furnishing of same to members of the council present at the meeting at which such ordinances are considered for adoption.
 - Distribution as provided in subsection (a) above of the written text of so much thereof of a revision or codification of all ordinances of the City, including new or changed ordinances therein contained, as is not embodied within the numbered chapters and sections of such revision or codification. (Ord. No. 013-83, 4-12-83)
- (c) Each committee shall consider the question of timing when proposing ordinances for Council's consideration, balancing the proposal's review time with the need for expediency, the proposal's complexity, and its potential impact.
- (d) A public hearing shall be held for every ordinance. Except as prescribed by city ordinance, code or regulation or State law, the following procedures for the hearing shall be used:
 - 1. Advertising shall be done one time in a newspaper of general circulation in the City at least ten (10) days prior to the hearing. The advertisement shall identify the substance of the ordinance and the time and place of the hearing.
 - 2. No request by a councilor shall be necessary for the advertising and holding of the hearing. (Ord. No. 036-95, 9-12-95)

SECTION 2-65. REQUIRED VOTE ON AND EFFECTIVE DATE OF ORDINANCES.

Unless otherwise specifically provided by the Constitution of Virginia, the Code of Virginia, the City Charter, or other general or special law, any ordinance may be adopted by majority vote of those present and voting at any lawful meeting and, an ordinance shall take effect from its passage, or upon a date fixed by the Council in the text of the ordinance. (Code 1959, §2-48; Ord. No. 024-99, 8-11-99)

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SECTION 2-66. WHEN VOTE TO BE RECORDED.

Upon any vote on any ordinance or resolution or other motion which involves or will require the appropriation of money in excess of one hundred dollars (\$100.00), or the levy of taxes or the contracting of any debt on behalf of the City, the ayes and nays shall be entered upon the journal. (Code 1959, §2-50).

SECTION 2-67. RECORDING AND INDEXING.

The clerk of council shall keep a book to be styled the "General Ordinance Book", in which shall be recorded all ordinances or resolutions of a general and permanent character. This book shall be accurately indexed. (Code 1959, §2-52).

SECTION 2-68. PUBLICATION OF ORDINANCES.

When so required by the city council or by state law, the clerk of council shall have ordinances published. (Code 1959, §2-53).

SECTION 2-69. NEW ORDINANCES NOT TO AFFECT PRIOR OFFENSES, RIGHTS, ETC.

No new ordinance shall be construed to repeal a former ordinance as to any offense committed against the former ordinance or as to any act done, any penalty, forfeiture or punishment incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or done, or any penalty, forfeiture or punishment so incurred, or any right accrued, or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform, so far as practicable, to the ordinance in force at the time of such proceedings. (Code 1959, §2-54)

State Law Reference--Similar provisions applicable to state statutes, Code of Virginia, §1-16.

SECTION 2-70. REPEAL OF ORDINANCE NOT TO REVIVE FORMER ORDINANCE.

When an ordinance which has repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect. (Code 1959, §2-55)

State Law Reference--Similar provisions applicable to state statute, Code of Virginia, §1-17.

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SECTION 2-71. WAIVER OF SECTIONS 2-63 AND 2-64 PERMITTED.

Unless otherwise specifically provided by the Constitution of Virginia, the Code of Virginia, the City Charter, or other general or special law, the Council may, at any lawful meeting, by unanimous vote of those present and voting, adopt a motion to waive all of the requirements stated in Sections 2-63 and 2-64 of this Code, and proceed, thereafter, to consider the adoption of any ordinance without resort to any of the procedures described in said Sections. Any such ordinance thereafter adopted in accordance with Section 2-65 of this Code, shall have the same force and effect as any other ordinance of the Council, and shall take effect as provided by said Section. (Ord. No. 024-99, 8-11-99)

SECTIONS 2-72 - 2-81. RESERVED.

ARTICLE IV. MAYOR

SECTION 2-82. GENERAL POWERS AND DUTIES.

The mayor may perform such duties and shall have such powers as are conferred by the Charter and ordinances of the City and the general laws of the Commonwealth. (Code 1959, §2-32)

Charter references--Mayor as member of council and his voting power §4; powers and duties of mayor, §6.

SECTION 2-83. ANNUAL REPORT TO COUNCIL.

The mayor shall make a general report to the council, at its first regular meeting in January of each year, of the condition of the City in relation to its government, finances and improvements, with such recommendations as he may deem proper. (Code 1959, §2-31)

SECTION 2-84. VICE-MAYOR.

The office of vice-mayor is hereby created and established pursuant to Section 3.01 of the Charter (Code 1959, §2-33)

Charter reference-- Office of mayor created, §3; Vice-mayor to act in absence of mayor, §3.01; election and term of mayor, §4.

State Law References--Veto power generally, Code of Virginia of 1950, as amended, §15.1-817, Veto power of Mayor of items of appropriation, §15.1-818 and Constitution of Virginia, Article VII, §7; salaries and expenses of office, §15.1-939 to 15.1-945; council to elect Mayor and Vice-Mayor, §15.1-40.3.

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SECTIONS 2-85 - 2-95. RESERVED.

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ARTICLE V. CITY MANAGER

SECTION 2-96. GENERAL POWERS AND DUTIES.

The city manager shall devote his entire time to the duties of his office and shall, as provided in Section 5, subsection (d) of the Charter, have the general charge and management of the administrative affairs and work of the City, including the several heads of departments and employees of the City, except in regard to health, library, parks and recreation, schools, and welfare. (Code 1959, §2-34; Ord. of 3-9-76)

Charter references--Petition for condemnation proceeding signed by city manager, §1.02(b); investigations by city manager, §7; recommendation for transfer of unexpended balance of appropriation, §11.

SECTION 2-97. DEPARTMENT HEADS TO RECEIVE ORDERS FROM CITY MANAGER.

All heads of departments under the control of the city manager, as provided in Section 2-96, shall receive their instructions and orders entirely from and through him. (Code 1959, §2-35)

SECTION 2-98. ANNUAL REPORTS.

The city manager shall make out and have printed annual reports of all departments of the City under his control. (Code 1959, §2-36)

SECTIONS 2-99--2-109. RESERVED.

ARTICLE VI. CITY ATTORNEY

SECTION 2-110. ELECTION AND QUALIFICATIONS.

The council shall elect a city attorney. The person so elected shall have been admitted to practice law in the courts of the Commonwealth of Virginia. (Code 1959, §2-37)

Charter reference--Authority of council to employ city manager, §5(d).

State Law Reference--Employment of city manager by city not adopting any of the alternative forms of government under Chapter 19 of Title 15.1 of the state code, Code of Virginia, as amended, §15.1-795.

SECTION 2-111. DUTIES.

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The city attorney shall perform for the City such duties as may be required of him by the council. (Code 1959, §2-38)

SECTIONS 2-112--2-122. RESERVED.

ARTICLE VII. CLERK OF THE COUNCIL

SECTION 2-123. ELECTION; FILLING OF VACANCY.

The city council shall elect a clerk of the council. Any vacancy occurring in his office shall be filled for the unexpired term. (Code 1959, §2-39)

SECTION 2-124. APPOINTMENT OF CLERK PRO TEMPORE.

In case of the absence of the clerk of the council after the organization of the council, the presiding officer may appoint a clerk pro tempore. (Code 1959, §2-40)

SECTION 2-125. DUTIES AS CLERK OF COMMITTEES.

The clerk of the council shall be, ex officio, clerk of the committees of the council, and shall attend all meetings of such committees when required by the chairman thereof. (Code 1959, §2-46)

SECTION 2-126. ISSUANCE AND SERVICE OF NOTICES GENERALLY.

The clerk of the council shall issue and place in the hands of the proper officer to be served all such notices as may be required to be issued under the provisions of this Code or other ordinance of the City. Any such notice shall be issued in the manner prescribed by law and shall be attested by him as clerk of the council. He shall file in his office the return of the officer upon any such notice. (Code 1959, §2-45)

SECTION 2-127. ISSUANCE OF NOTICES OF CALLED COUNCIL MEETINGS; ATTENDANCE AT MEETINGS.

The clerk of the council shall issue notices to each member of the council in case of a called meeting. He shall attend all meetings of the council. (Code 1959, §2-41)

SECTION 2-128. DUTIES WITH RESPECT TO MINUTE BOOK.

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- (a) The clerk of the council shall keep a book, to be styled the "Minute Book," in which shall be recorded the full proceedings of each and every meeting of the council. This book shall be kept accurately indexed.
- (b) The clerk of the council shall keep a minute record in the journal of all petitions presented, all motions made or resolutions or ordinances introduced, to what committee referred, and the final action thereon when the report of the committee is made. (Code 1959, §2-42)

Cross reference--Duty of clerk with respect to "General Ordinance Book," §2-67.

State Law Reference--Appointment, etc. Code of Virginia, §15.1-797.

SECTION 2-129. GENERAL DUTIES AS CUSTODIAN OF CITY DOCUMENTS.

Except as otherwise provided, the clerk of the council shall keep all bonds and contracts taken by order of the council and shall take charge of and carefully preserve all books, papers, records and other documents of the City that are not specially placed in the charge and keeping of some other officer. He shall prepare and record, in some book to be kept for the purpose, a list of all such documents which shall show the general character of each document and the date of its receipt by the clerk of the council. He shall not permit the original copy of any such document to be taken from his custody without leave of the council or unless required by law. All such documents shall be kept in a safe to be provided by the council or in a suitable place in the vault in the office of the clerk of the circuit court. (Code 1959, §2-44)

SECTION 2-130. DUTY TO FURNISH COPIES OF CERTAIN DOCUMENTS.

The clerk of the council shall, when any petition, communication, resolution or any other paper is referred to any committee of the council, deliver, within forty-eight (48) hours after the session of the council at which such reference is made, a copy of the same to the chairman of the committee to which the same is referred. The clerk of the council shall make out and deliver to the finance director, within forty-eight (48) hours after any session of the council, a copy of every ordinance or resolution adopted at the session appropriating money, and he shall, upon request, furnish a copy of any ordinance or proceeding of the council or of any public document in his custody to such officer of the City as may be entitled thereto. (Code 1959, §2-43)(Ord. No. 036-95, 9-12-95)

SECTIONS 2-131--2-141. RESERVED.

ARTICLE VIII. TREASURER

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SECTION 2-142. BOOKS TO BE UNDER CONTROL OF COUNCIL.

The books of the treasurer shall be subject to the control of the council and shall, at any time when required, be exhibited to the council or to such committee as the council may designate. (Code 1959, §7-7).

SECTION 2-143. COLLECTION OF AND ACCOUNTING FOR REVENUE.

The treasurer shall collect all taxes, license taxes and assessments levied by the council and he may receive all rents and other income or revenue of the City which it is not made the duty of some other officer to collect. He shall account for the same as the ordinances of the City may prescribe. (Code 1959, §7-4).

Cross reference--Taxation, Ch. 27.

SECTION 2-144. DUTIES WITH RESPECT TO BONDS OR OTHER EVIDENCE OF CITY'S INDEBTEDNESS.

The treasurer shall keep an account of each bond or other evidence of debt issued or executed by the City, which account shall show:

- (1) The amount of each bond or other evidence of indebtedness and its character;
- (2) The date when issued, when due and where payable;
- (3) Under what law it was issued;
- (4) If registered, in whose name it is registered;
- (5) Its rate of interest and when and where payable; and
- (6) What interest has been paid and to whom paid.

He shall cancel all coupons paid by him and retain the same until he has settled his accounts for the fiscal year. (Code 1959, §7-5).

SECTION 2-145. REPORTS TO FINANCE DIRECTOR.

- (a) The treasurer shall deliver daily to the finance director a report showing an analysis of receipts by funds collected during the preceding business day and deposited in the bank.
- (b) The treasurer shall report to the finance director, on the first day of each month, the balance in his account in each of the City depositories on the last day of the preceding month. (Code 1959, §7-6)(Ord. No. 049-95, 10-17-95)

Charter references--Office of treasurer created, §3; election and term of treasurer, §22.

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State Law References--Salary, Code of Virginia. §14.1-55; terms of office Code of Virginia, §24-86, Constitution of Virginia; Article VII, §4; Election §15.1-40.1; Bonds §15.1-44, *et seq.*

SECTIONS 2-146 - 2-149. RESERVED.

SECTION 2-150. TAX FIELD OFFICE.

There is hereby created the tax field office, to be operated by a city employee entitled "field auditor", whose duty it shall be to investigate and ascertain whether each person engaged in any business or profession for which a license is required under this Code or any other ordinance of the City has secured a proper license, and whether each person in the City responsible for the payment of personal property taxes has reported and paid such taxes. In any case in which the amount of tax for such license is based on sales or purchases for the amount of business done, the field auditor shall have the power to summon the person engaged in such business or profession before him for examination under oath, and to require the production of any books, accounts, reportings, or records of such person for inspection by the auditor.

The auditor shall also have the power to summon any person responsible for payment of personal property taxes for examination under oath, and to require the production of any books, accounts, reports, or records of such person for inspection by the auditor.

The field auditor is further authorized and empowered to make such other and further investigations, examinations, and audits of the records, books, reportings, and accounts of such person as he shall deem proper in order to determine accurately the amount of license taxes properly payable or, in appropriate cases, the amount of personal property taxes properly payable. If it shall appear that the purchases, sales or amount of business, or any other matter pertinent to the assessment of license taxes, or any schedules of personal property have been incorrectly reported or returned, the field auditor shall report his findings to the commissioner of the revenue, who shall, if he is satisfied that an incorrect report or return has been made, assess a proper license tax or personal property tax in accordance with the findings of the inspector.

Any person who shall fail to appear before the auditor to produce the records, books, reportings, or accounts required by this section, when duly summoned, or shall refuse to permit the auditor to make such other and further investigation and audit of the books and papers as aforesaid, shall be guilty of a misdemeanor punishable as provided in §1-11. The field auditor shall have the authority to have a summons or warrant of arrest issued for any person in violation of the provisions of this section, and shall have the authority to represent the City in the prosecution for any such violation.

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In the performance of his duties hereby imposed, the field auditor shall be subject to the supervision and direction of the commissioner of the revenue. (Ord. No. 028 -87, 11-10-87)

SECTIONS 2-151 - 2-155. RESERVED.

ARTICLE IX. DATA PROCESSING DIRECTOR AND FINANCE DIRECTOR

SECTION 2-156. DATA PROCESSING DIRECTOR; APPOINTMENT; DUTIES.

There is hereby created the office of data processing director. The data processing director shall be appointed by the city manager and shall have general charge and management of the data processing work of the City and such other duties as the council or the City manager may require. (Ord. No. 036-95, 9-12-95)

SECTION 2-157. OFFICE CREATED; APPOINTMENT.

There is hereby created the office of finance director. The finance director shall be appointed by the city manager. (Code 1959, §7-9; Ord. of 4-13-76)(Ord. No. 049-95, 10-17-95)

SECTION 2-158. GENERAL POWERS AND DUTIES.

The finance director shall, under the control of the city manager, have the general charge and management of the accounting work of the City. He shall perform such duties as are required by him by the terms of this article and other ordinances of the City, and such other duties as the council or the city manager may require. (Code 1959, §7-9; 7-10; Ord. of 04-13-76)(Ord. No. 036-95, 9-12-95)

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SECTION 2-159. DEPUTY DIRECTOR.

The city manager shall designate, on the recommendation of the finance director, a deputy finance director who shall be an employee of the director's office and shall perform such duties as may be assigned to him from time to time by the director. In the absence of the finance director, the deputy director shall act and have the same powers and duties as the director. (Code 1959, §7-11)(Ord. No. 049-95, 10-17-95)

SECTION 2-160. RECORDS GENERALLY.

The finance director shall keep complete records reflecting the financial condition and the results of operations of the water utility and such other records as he or the council or manager may deem necessary and advisable. All records shall be maintained, insofar as practicable, in accordance with accepted principles and procedures prescribed for municipalities. (Code 1959, §7-13) (Ord. No. 049-95, 10-17-95)

Cross reference--Water utility, §29-22, *et seq.*

SECTION 2-161. PREPARATION AND CUSTODY OF FISCAL ACCOUNTS AND RECORDS; SUPERVISION OF OFFICE.

The finance director shall superintend and be responsible for the proper and accurate preparation and custody of all fiscal accounts and records of the City, except those maintained by the treasurer. He shall have direct supervision over his office and shall be responsible for the proper operation thereof. (Code 1959, §7-12)(Ord. No. 049-95, 10-17-95)

SECTION 2-162. MANNER OF KEEPING ACCOUNTS.

The finance director shall keep all accounts necessary to reflect, at all times, the resources, obligations, revenues, expenditures and surplus of each fund. Such accounts shall be kept in detail and by funds in such a manner as to show at all times the estimated revenue, realized revenue and unrealized estimated revenue, and the appropriations, expenditures, encumbrances and unencumbered appropriations for each department and agency of the City government. The appropriations and expenditures shall be classified by functions and by objects, if the latter is deemed necessary. (Code 1959, §7-13)(Ord. No. 049-95,10-17-95)

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SECTION 2-163. DUTY AS TO TREASURER.

The finance director shall charge the treasurer, whose duty it is to collect the revenues of the City, with the whole amount of taxes of all types, including penalties, licenses of all types, including penalties, utility bills, including penalties, and other revenues which it is the duty of the treasurer to endeavor to collect, and shall credit the treasurer with all collections made by the treasurer and reported to the finance director. (Code 1959, §7-14)(Ord. No. 049-95, 10-17-95)

SECTION 2-164. TRANSFERS BETWEEN FUNDS OR DEPARTMENTS, ETC.

The finance director shall not make or enter in the books of accounts any cash or appropriation transfer between funds or departments, bureaus or agencies except upon order of the council or its properly delegated agent. (Code 1959, §7-37)(Ord. No. 049-95, 10-17-95)

Charter reference--Authority of council to transfer appropriation to other purpose or object, §11.

SECTION 2-165. DEDUCTION OF AMOUNTS DUE CITY.

Any amount which may be due the City may be deducted and withheld by the finance director from any and all accounts and payrolls payable by the City, and the director shall pay the vendor or employee the balance due on his account or compensation after such deduction. (Code 1959, §7-29)(Ord. No. 049-95, 10-17-95)

SECTION 2-166. AUTHORITY TO CALL ON OTHER OFFICERS AND EMPLOYEES FOR INFORMATION, RECORDS, ETC.

The finance director is authorized to call on the city attorney, treasurer, commissioner of the revenue or any other officer or employee of the City for any information, books, records, or accounts in the possession of any such person which he deems necessary to enable him to make up any monthly, annual or other report. (Code 1959, §7-41)(Ord. No. 049-95, 10-17-95)

SECTION 2-167. INSPECTION OF BOOKS AND RECORDS BY OTHER OFFICERS.

All books, records, and papers in the custody of the finance director shall be open for the inspection of the members of the council, the city manager, the city attorney or any other

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officer of the City who, in the discharge of his duties, may have occasion to examine them. (Code 1959, §7-42)(Ord. No. 049-95, 10-17-95)

SECTION 2-168. REPORTS GENERALLY.

The finance director shall prepare all financial reports and data requested by the council or city manager and in addition shall prepare and submit monthly financial reports to the council, city manager, and department heads at the regular meeting of the council. Such monthly financial reports shall show the general status of all city funds and accounts as of the last day of the preceding calendar month. (Code 1959, §7-38)(Ord. No. 049-95, 10-17-95)

SECTION 2-169. ANNUAL FINANCIAL REPORT.

The finance director shall prepare an annual report showing the financial condition of all funds of the City as of the close of the fiscal year, the receipts and disbursements and the results of operation of all funds for the fiscal year. He shall submit such report to the council and city manager within sixty (60) days after the close of the fiscal year. (Code 1959, §7-40)(Ord. No. 049-95, 10-17-95)

SECTIONS 2-170 - 2-218. RESERVED.

ARTICLE X. INDUSTRIAL DEVELOPMENT AUTHORITY

SECTION 2-219. CREATION OF INDUSTRIAL DEVELOPMENT AUTHORITY.

Pursuant to Chapter 33, Title 15.1 of the Code of Virginia, as amended ("Industrial Development and Revenue Bond Act"), there is hereby created a political subdivision of the Commonwealth of Virginia named the "Industrial Development Authority of the City of Winchester". (Ord. No. 005-85, 4-09-85; Ord. No. 036-95, 9-12-95)

State Law Reference--Industrial Development and Revenue Bond Act, Code of Virginia, §15.1-1373 *et seq.*

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SECTION 2-220. POWERS OF AUTHORITY.

The Industrial Development Authority of the City of Winchester shall have such public and corporate powers as set forth in the Industrial Development and Revenue Bond Act, including such powers as may be set forth in said Act from time to time.

All proceedings heretofore taken by the Authority within the powers granted industrial development authorities pursuant to the Act are hereby validated and confirmed.

The terms and provisions of this article shall become effective on date of adoption by the Common Council of the City of Winchester, Virginia. (Ord. No. 005-85, 4-09-85; Ord. No. 036-95, 9-12-95)

SECTIONS 2-221 - 2-271. RESERVED.

